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PIP-69A-KATZ

**IN THE UNITED STATES PATENT & TRADEMARK OFFICE**

IN RE APPLICATION OF

KATZ, GARY M. : ATTN: APPLICATION DIVISION

SERIAL NO.: NEW APPLICATION

FILED: HEREWITH

FOR: METHOD AND SYSTEM FOR  
TIMING PROMOTIONS BASED  
ON A PRIOR RECEIPT OF PROMOTIONS

**PETITION TO MAKE SPECIAL UNDER M.P.E.P. § 708.02(VIII)**

ASSISTANT COMMISSIONER FOR PATENTS  
WASHINGTON, D.C. 20231

SIR:

**I. Basis For the Petition**

Pursuant to MPEP § 708.02(VIII), applicants hereby petition for a special status for this application.

**II. Requirements for Granting Special Status**

MPEP § 708.02(VIII) provides five requirements for a grant of special status. The following subsections show that each of these five requirements is met.

**A. Submit Petition and Fee: § 708.02(VIII)(A)**

This petition is accompanied by the fee set forth in 37 CFR § 1.17(i).

**B. Agree to an Election Without Traverse: § 708.02(VIII)(B)**

Applicants submit that all claims are directed to a single, patentable invention because each claim relates to timing promotions to a consumer based upon a prior receipt of promotions. However, should the Office determine that all the claims presented are not

directed to a single invention, applicants agree to elect the largest group of claims that includes Claim 1.

**C. State that a Pre-examination Search Was Made:  
§ 708.02(VIII)(C)**

A preexamination search was made. The pre-examination search included a search of the following class and subclasses: class 705, subclasses 14, 14F, 10, 26, 26F, 27, 7, 8, 35, and 39; class 463, subclasses .25, .26, .27. Examiner Ed Cosimano of Art Unit 2761 was consulted regarding the field of search.

**D. Submit a Copy of the Most Relevant References:  
§ 708.02(VIII)(D)**

Copies of the references discussed below are submitted with the information disclosure statement and form PTO-1449, filed herewith.

**E. Submit a Detailed Discussion of the References, Pointing Out How the Claimed Subject Matter is Patentable Over the References: § 708.02(VIII)(E)**

Independent Claim 1 includes features not taught or suggested by the references deemed most relevant to the claims. Specifically, Claim 1 defines a method comprising the steps of receiving identification information from a consumer, identifying, based upon said received identification information, one or more parameters related to promotions received by said consumer, and determining a time at which a promotion is to be provided based upon said identified one or more parameters related to promotions received by said consumer.

U.S. Patent 6,076,101 to Kamakura et al. describes an electronic mail processing system with bonus point tracking. This system encourages a recipient to open and reply to an electronic mail message by receiving replies from the recipients to the message, and maintaining a bonus point account for each individual customer that corresponds in some

way to the replies from that consumer. However, the Kamakura et al. reference fails to describe or suggest a method that includes receiving identification information from a consumer, identifying, based upon said received identification information, one or more parameters related to promotions received by said consumer, and determining a time at which a promotion is to be provided based upon said identified one or more parameters related to promotions received by said consumer.

U.S. Patent 6,070,145 to Pinsley et al. describes a respondent selection method for network based survey. This system randomly conducts a survey of computer network users. However, the Pinsley et al. reference fails to describe or suggest a method that includes receiving identification information from a consumer, identifying, based upon said received identification information, one or more parameters related to promotions received by said consumer, and determining a time at which a promotion is to be provided based upon said identified one or more parameters related to promotions received by said consumer.

U.S. Patent 6,061,660 to Eggleston et al. describes a system and a method for incentive programs and award fulfillment. This system allows a consumer to participate in one or more incentive programs by logging into a website, spending a certain amount of time at the site and either entering data or responding to prompts using the computer. If the consumer satisfies a certain predetermined criterion the consumer can win promotional prizes. However, the Eggleston et al. reference fails to describe or suggest a method that includes receiving identification information from a consumer, identifying, based upon said received identification information, one or more parameters related to promotions received by said consumer, and determining a time at which a promotion is to be provided based upon said identified one or more parameters related to promotions received by said consumer.

U.S. Patent 6,055,510 to Henrick et al. describes a method for performing targeted marketing over a large computer network. This method involves the creation of a customer list and sending E-mails to the customers on that list. Each E-mail includes a hypertext link with an embedded URL and identifying information that identifies the consumer who has received the E-mail with the embedded URL. When the customer selects the embedded URL, the customer's identity is provided to the advertiser. The advertiser is thus able to maintain a record of the total number of E-mail messages delivered and the total number of responses generated. However, the Henrick et al. reference fails to describe or suggest a method that includes receiving identification information from a consumer, identifying, based upon said received identification information, one or more parameters related to promotions received by said consumer, and determining a time at which a promotion is to be provided based upon said identified one or more parameters related to promotions received by said consumer.

U.S. Patent 6,035,279 to Montangero et al. describes a prize-awarding remote terminal base system. This remote terminal base system detects a data stream, extracts from the data stream signals identifying a certain operation, compares the extracted signals with reference signals, and generates a win probability signal relating to certain acts of the customer. However, the Montangero et al. reference fails to describe or suggest a method that includes receiving identification information from a consumer, identifying, based upon said received identification information, one or more parameters related to promotions received by said consumer, and determining a time at which a promotion is to be provided based upon said identified one or more parameters related to promotions received by said consumer.

U.S. Patent 6,009,412 to Storey describes a fully integrated, on-line interactive frequency and award redemption program. In this award redemption program, the customer is able to browse through a merchandise catalog and an award catalog, view bonus points available for the redemption in the customer awards bonus account, and obtain information about the products for purchase, the program, and the customer's account. However, the Storey reference fails to describe or suggest a method that includes receiving identification information from a consumer, identifying, based upon said received identification information, one or more parameters related to promotions received by said consumer, and determining a time at which a promotion is to be provided based upon said identified one or more parameters related to promotions received by said consumer.

U.S. Patent 5,999,967 to Sundsted describes an electronic mail filtering using an electronic stamp. This electronic mail filtering process and apparatus allows the receiver of electronic mail to decide whether to accept, reject, prioritize, or expedite deliver of a piece of electronic mail based on the value of an attached electronic stamp. However, the Sundsted reference fails to describe or suggest a method that includes receiving identification information from a consumer, identifying, based upon said received identification information, one or more parameters related to promotions received by said consumer, and determining a time at which a promotion is to be provided based upon said identified one or more parameters related to promotions received by said consumer.

U.S. Patent 5,991,736 to Ferguson et al. describes a patronage incentive award system that incorporates retirement accounts. In this system a monetary award is made into a customer's retirement account as an incentive for the customer to participate in a transaction. However, the Ferguson et al. reference fails to describe or suggest a method that includes receiving identification information from a consumer, identifying, based upon said received

identification information, one or more parameters related to promotions received by said consumer, and determining a time at which a promotion is to be provided based upon said identified one or more parameters related to promotions received by said consumer.

U.S. Patent 5,983,196 to Wendkos describes interactive computerized methods and devices for conducting an incentive awards program. A participant in this incentive award program calls or connects to an interactive platform for registering and/or redeeming credits. These credits are preferably described in uniquely identified certificates. However, the Wendkos reference fails to describe or suggest a method that includes receiving identification information from a consumer, identifying, based upon said received identification information, one or more parameters related to promotions received by said consumer, and determining a time at which a promotion is to be provided based upon said identified one or more parameters related to promotions received by said consumer.

U.S. Patent 5,974,398 to Hanson et al. describes a method and a device that enables evaluation of user access to advertising. In this system and device an advertiser's bid amount would pay for a portion of the user's service or usage charge. A display on the user's terminal screen will include the advertisers most willing to pay for the user's attention on the dollar amount bid. If the user chooses to see a particular advertiser's message then the user is reimbursed or a credit is applied to the user's service accounts. However, the Hanson et al. reference fails to describe or suggest a method that includes receiving identification information from a consumer, identifying, based upon said received identification information, one or more parameters related to promotions received by said consumer, and determining a time at which a promotion is to be provided based upon said identified one or more parameters related to promotions received by said consumer.

U.S. Patent 5,907,831 to Lotvin et al. describes a computer apparatus and methods that support different categories of users. In this system and apparatus, educational materials are provided to a child's computer under control of a central computer system connected thereto by way of a computer network. When the child has completed a particular educational task, the child is rewarded with a certain number of points. Point storage is centrally maintained. However, the Lotvin et al. reference fails to describe or suggest a method that includes receiving identification information from a consumer, identifying, based upon said received identification information, one or more parameters related to promotions received by said consumer, and determining a time at which a promotion is to be provided based upon said identified one or more parameters related to promotions received by said consumer.

U.S. Patent 5,893,075 to Plainfield et al. describes an interactive system and method for surveying and targeting customers. A programmed personal computer induces customers of a restaurant, store, or other business to enter information about themselves. This information enables a business to generate promotional messages tailored to customers. In order to induce customers to enter the necessary information, the system flashes an incentive message on the computer display screen. However, the Plainfield et al. reference fails to describe or suggest a method that includes receiving identification information from a consumer, identifying, based upon said received identification information, one or more parameters related to promotions received by said consumer, and determining a time at which a promotion is to be provided based upon said identified one or more parameters related to promotions received by said consumer.

U.S. Patent 5,794,210 to Goldhaber et al. describes an attention brokerage. The attention brokerage brokers the buying and selling of the "attention" of users. However, the

Goldhaber et al. reference fails to describe or suggest a method that includes receiving identification information from a consumer, identifying, based upon said received identification information, one or more parameters related to promotions received by said consumer, and determining a time at which a promotion is to be provided based upon said identified one or more parameters related to promotions received by said consumer.

U.S. Patent 5,502,636 to Clarke describes a personalized computer generating and processing system. This system communicates the availability of preselected coupons to consumers and consumers respond by requesting coupons that are personalized to their own needs. However, the Clarke reference fails to describe or suggest a method that includes receiving identification information from a consumer, identifying, based upon said received identification information, one or more parameters related to promotions received by said consumer, and determining a time at which a promotion is to be provided based upon said identified one or more parameters related to promotions received by said consumer.

Accordingly, independent Claim 1, which recites a method comprising the steps of receiving identification information from a consumer, identifying, based upon said received identification information, one or more parameters related to promotions received by said consumer, and determining a time at which a promotion is to be provided based upon said identified one or more parameters related to promotions received by said consumer, is believed to patentably distinguish over the references discussed above. Since Claims 2-27 depend from Claim 1, it is also respectfully submitted that Claims 2-27 patentably distinguish over the references discussed above for at least the same reasons as independent Claim 1.

Since Claims 28-32 and 33-45 recite a system suitable for performing, e.g., the above-discussed methods, it is also respectfully submitted that Claims 28-32 and 33-45 patentably

distinguish over the references discussed above for at least the same reasons as independent Claim 1.

Since Claim 46 recites a computer readable medium containing program instructions for execution on a computer system, which when executed by the computer system, cause the computer system to perform the method recited in any one of claims 1 to 27, it is also respectfully submitted that Claim 46 patentably distinguishes over the references discussed above for at least the same reasons as independent Claim 1.

### **III. Conclusion**

The petition to make special should be granted. Therefore, applicants respectfully request that this application be advanced out of turn for examination.

Respectfully submitted,

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